

TENNESSEE REGULATORY AUTHORITY

Lynn Greer, Chairman
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460 James Robertson Parkway
Nashville, Tennessee 37243-0505

July 31, 1997
EXECUTIVE SECRETARY

To: All Participants in Universal Service Contested Case
Docket No. 97-00888

It has come to my attention that the attached memorandum has been circulated to some extent within the Tennessee Regulatory Authority. We are appreciative of our staff's efforts in noting certain parts of the Federal Communication Commission's ("FCC") Order on Universal Service. However, as the memorandum states, some information was provided by BellSouth. Consequently, I have a concern that such information received could be considered a violation of Tenn. Code Ann. § 4-5-304 regarding ex parte communications.

Therefore, pursuant to Tenn. Code Ann § 4-5-304 (e), I am providing all participants in this docket a copy of this memorandum and will have the memorandum placed in the record in the above-referenced docket. Further, if parties desire to comment on the memorandum, such comments are provided for if received within ten (10) days after notice of the communication.

As you will see, the memorandum is simply a reiteration of various paragraphs of the Universal Service Order from the FCC. However, we just wanted to insure that all parties were aware of the memorandum and had an opportunity to comment if they desire.

Sincerely,



Eric Witkoski
Senior Counsel

Attachment

cc: Dennis McNamee
David Waddell
Mike Gaines

May 28, 1997

MEMORANDUM

TO: Interested Staff

FROM: Mike Gaines *Mike G.*

SUBJECT: State Requirements from FCC's Universal Service Order

This is a list of actions required of state commissions from the FCC's Universal Service Order. A portion of the list was given to me by BellSouth and below are additions to that list which I prepared as I read the Order.

I am working on a summary of the Order and hope to have it ready by the middle of next week. In the meantime I hope this is beneficial to you.

Additional State Actions

- 54 The states and the FCC will monitor telephone subscribership levels for all Americans, including minorities, in an effort to determine whether additional action to ensure affordable access to telecommunications services is needed.
- 65 The FCC should determine the level of local usage to be supported by federal universal service mechanisms and that the states are best positioned to determine the local usage component for purposes of state universal service mechanisms.
- 132 State commissions must, either on their own motion or upon request, designate a common carrier that meets the requirements of section 214(e)(1) "as an eligible telecommunications carrier for a service area designated by the State commission." Also can designate one or more per service area.
- 149 Reserves to the states the authority to act upon an eligible carrier's request to relinquish its designation as an eligible carrier.
- 181 Rely on state monitoring of the provision of supported services to ensure that universal service support is used as intended until competition develops.
- 216 The FCC will work with states commissions to review the cost model to ensure that the FCC considers the unique situation of rural carriers.
- 223 Forward-looking economic cost will be determined at the state's election according to state-conducted forward-looking economic cost studies approved by

the FCC, or cost models developed by the FCC, in consultation with the Joint Board.

- 310 Although carriers may self-certify that it meets the definition of a “rural carrier” the FCC and state commissions may still verify the accuracy of the carriers’ statements.
- 351 For Lifeline customers in a given state to receive the additional \$1.75 in federal support, that state need only approve the reduction in the portion of intrastate rate paid by the end user; no state matching is required.
- 381 Eliminate the requirement that states verify Link Up customers’ qualifications for the program and instead rely on the states to determine whether the costs of verification outweigh the potential for fraud, waste, or abuse.
- 392 Should toll limitations apply to other customers not just low-income customers.
- 396 State regulators should have the ability to grant carriers a limited waiver of the no-disconnect requirements for low-income customers under special limited circumstances.
- 403 States determine whether to require carriers to provide Lifeline customers with free access to information about telephone service. Could impose this through state universal service support mechanisms.
- 407 States determine if additional information provided to low-income consumers increases the subscribership levels.
- 434 If states prefer a program that targets a narrower or broader set of services for schools and libraries can make funds available through state universal service mechanisms.
- 478 States can adopt FCC guidelines and limits on schools and libraries consortia at the state level.
- 490 If a school or library or carrier thinks rate is unfairly high or low, they can seek recourse from the FCC, for interstate rates, and the state commission, for intrastate rates.
- 808 In the short-term FCC will assess only interstate revenues to provide for the high-cost and low-income mechanisms since the FCC felt states would continue to fund these programs in such a manner that the universal service mechanisms will be sufficiently funded.

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Paragraph #	Action Required
6	States will conduct cost studies during the coming year in order to determine a mechanism for forward-looking costs.
14	States, acting pursuant to sections 254(f) and 253 of the Communications Act, must be responsible for identifying intrastate implicit universal service support.
23	States should monitor rates and non-rate factors, such as subscribership levels, to ensure affordability.
25, 129, 185 and 941	The statute gives state commissions primary responsibility for designating service areas served by non-rural carriers. States should not designate service areas that are unreasonably large or that are based on ILECs' study areas.
25	Encourage states to consider disaggregating a non-contiguous service area of a rural telephone company into service areas composed of the contiguous portions of that area because some wireless carriers may be unable to provide service in non-contiguous service areas. Encourage state commissions to submit to the Commission reports detailing the status of unserved areas in their states.
89	As to single-party service, will permit state commissions, upon a finding of "exceptional circumstances," to grant an otherwise eligible carrier's request that, for a designated period, the carrier will receive universal service support while it completes the specified network upgrades necessary to provide single-party service.
93	Where a state has ordered a carrier to provide single-party service within a specified time period pursuant to a state order that precedes the release date of this Order, the carrier may rely on the timetable established in that order and receive universal service support for the duration of that period.
100	Encourage state commissions to submit to the Commission the service quality data they receive from their telecommunications carriers.
100	Encourage state commissions, to the extent they collect such information, to make service quality data readily available to the public.
101	States may adopt and enforce service quality rules that are competitively neutral, pursuant to section 253(b), and that are not otherwise inconsistent with rules adopted herein. Favor state implementation of carrier performance standards.

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107	Encourage states, to the extent they collect and monitor data relevant to assessing whether services meet the criteria set forth in section 254(c)(1), to provide such data to the Joint Board and the Commission in connection with any future re-evaluation of the definition of universal service.
108	States should exercise primary responsibility for determining the affordability of rates. States should jointly examine with the Commission, the factors identified at the state level that may contribute to low penetration rates in states where subscribership levels are particularly low.
110	Commission and the states must consider both the absolute and relative components when making the affordability determinations required under section 254.
113	Commission and states should use subscribership levels, in conjunction with rate levels and certain other non-rate factors, to identify those areas in which the services designated for support may not be affordable.
118	State commissions are the appropriate fora for consumers wishing to challenge the affordability of intrastate rates for both local and toll services. Encourage states to submit to the Commission summary reports of the data collected at the state level that could assist the Commission in its assessment of affordability.
120	Defer to the states for guidance on how best to implement federal-state collaborative efforts to ensure affordability.
123	FCC will continue to actively monitor subscribership across a wide variety of income levels and demographic groups and encourage states to do likewise.
126	States must play an important role in making affordability determinations, and the Commission will work in concert with the states to that end.
135	Section 214(e)(2) does not permit the Commission or the states to adopt additional criteria for designation as an eligible telecommunications carrier.
135	The provisions dictate that a state commission must designate a common carrier as an eligible carrier if it determines that the carrier has met the requirements of section 214(e)(1).
148	Encourage states to consider the suggestion of Roseville Tel. Co. that the section 214(e)(1)(B) requirement that carriers advertise in "media of general distribution" is not satisfied by placing

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	advertisements in business publications alone, but instead compels carriers to advertise in publications targeted to the general residential market.
176	Expect the state commission, in the process of making eligibility determinations, will play an important part in minimizing the risk of anticompetitive behavior. Under section 214(e)(3), a state commission must make a finding that designation of more than one eligible carrier is in the public interest in a service area that is served by a rural telephone company.
187	FCC should determine the procedure by which the state commission, when proposing to redefine a rural service area, may obtain the agreement of the Commission.
188	After a state has concluded that a service area definition different from a rural telephone company's study area would better serve the universal service principles found in section 254b), either the state or a carrier must seek the agreement of the Commission.
190	Encourage states to determine whether rural service areas should consist of only the contiguous portions of an ILEC's study areas, and to submit such a determination to the Commission.
196	Strongly encourage state commission to file with the Common Carrier Bureau reports detailing the status of unserved areas in their states.
198	A state commission seeking to alter a rural service area has the choice of either filing itself, or requiring an affected eligible telecommunications carrier to file, a petition with the Commission seeking the latter's agreement with the newly defined rural service area.
202	States, acting pursuant to sections 254(f) and 253, must be responsible for identifying implicit universal service support.
206	To determine the appropriate level of federal support for service to rural, insular and high cost areas, invite the states to submit cost studies based on forward-looking economic costs.
248	States must elect, by August 15, 1997, whether they will conduct their own forward-looking economic cost studies. States that elect to conduct them should file them with the Commission on or before February 6, 1998.
251	In order for the Commission to accept a state cost study submitted for purposes of calculating federal universal service support, that cost study must be the same study that is used by the state to determine intrastate universal service support levels.

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251	A state may submit a cost study that has already been performed for evaluation by the Commission. Encourage states to use their ongoing proceedings to develop permanent unbundled network element prices as a basis for their universal service cost study.
361	States must meet the requirements of section 2354(e) in providing equitable and non-discriminatory support for state universal service support mechanisms.
370	Hopeful that states will take the steps required to ensure that low-income consumers can receive Lifeline service from resellers. Can rely on the states to ensure that at least one eligible telecommunications carrier is certified in all areas.
371	Urge states to define service areas in a way that will promote competitive neutrality by allowing carriers to serve some high cost consumers efficiently.
378	Encourage states to adopt Lifeline administrative procedures, including eligibility verification procedures, that are as efficient as possible. The public interest is best served by minimizing overhead expenses and encourage state innovation in this area.
382	States shall be prohibited from restricting the number of service connections per year for which low-income consumers who relocate can receive Link Up support.
488	It is reasonable for rates to reflect any factors that clearly and significantly affect the cost of service, including mileage from switching facility to length of contract. Expect state commission to employ these same standards when evaluating differences between customers of intrastate services.
492	The Act requires the states, with respect to intrastate services, to establish a discount on designated services provided to eligible schools and libraries.
527	States are free to establish their own discount programs for schools and libraries under state-funded programs, but such programs will not receive federal universal service support.
551	<p>It is permissible for states to choose not to supplement the federal program and thus prohibit their schools and libraries from purchasing services at special state-supported rates if the schools and libraries intend to secure federal-supported discounts.</p> <p>If a state wishes to provide an intrastate discount mechanism that is less than the federal discount, it may seek a waiver of the requirement that it match the federal discount levels, although waivers will only be granted on a temporary basis and only for states with unusually compelling cases.</p>

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574	To ensure that technology plans are based on the reasonable needs and resources of the applicant and consistent with the goals of the program, the FCC will require independent approval of an applicant's technology plan, ideally by a state agency that regulates schools or libraries.
661	Encourage state commissions to periodically review the proposed rates for health care providers.
663	States are entitled to establish and fund their own universal service support mechanisms, not inconsistent with the Commission's rules, which do not interfere with or burden federal universal support mechanisms.
791	Section 332(c)(3) Does not preclude states from requiring CMRS providers to contribute to state support mechanisms. States may require telecom carriers that provide intrastate telecom services to make equitable nondiscriminatory contributions to state support mechanisms. Section 332(c)(3) prohibits states from regulating the rates charged by CMRS providers.
834	States should convert their own programs into explicit support mechanisms.
834	FCC will provide \$3.50 in federal support for every Lifeline consumer, which will be for ILECs a waiver of the SLC, plus an additional \$1.75 pending state commission approval of a reduction in state rates.
869	Delegate to the CCB and the state staffs of the Joint Boards in Docket Nos. 96-45 and 80-286 to create a new monitoring program to serve as a vehicle for monitoring the reports on amounts of payments made and monies received in the universal service support mechanisms.
937	States should have the primary responsibility for monitoring the affordability of telephone service rates and in working in concert with the Commission to ensure the affordability of such rates. The Commission will work with affected states to determine the causes of both declining statewide subscribership levels and below average statewide subscribership levels.